IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2200 OF 2005.

Nikalje Suresh @ Chimya
Shantaram, age 42 years,
Occ.: Service, residing at
4/10, Srinath Housing Society,
Thergaon, Pune. ... Petitioner.

Versus.

1. The State of Maharashtra
through the Deputy Commissioner
of Police, Zone III, Pune City,
Pune.

2. The Principal Secretary (Appeals),
Home Department, Mantralaya,
Mumbai 400 032. ... Respondents.

Shri Uday P.Warunjikar for the Petitioner.

Shri S.V.More, A.P.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 11th October, 2006.

ORAL JUDGMENT.:

1. Heard the learned Counsel appearing for the parties. The challenge in this petition under Article 227 of the Constitution of India is to the order of externment passed against the Petitioner under the provisions of the Bombay Police Act, 1951. The challenge is also to the order passed by the Appellate Authority by which the order of externment has been confirmed. Various contentions have been raised by the learned Counsel for the Petitioner. One of the contentions is that the order of externment is

excessive. He submitted that the prejudicial activities allegedly committed by the Petitioner are confined to the jurisdiction of Pimpri, Hinjavadi and Paud Police Stations in Pune district and the order of externment applies to the Districts of Pune, Raigad, Ahmednagar and Satara. He submitted that the order is clearly excessive and is required to be quashed and set aside.

2. The learned A.P.P. placed reliance on the decision of the Apex Court in the case of Pandharinath Shridhar Rangnekar v/s. Deputy Commissioner of Police and another [(1973) 1 SCC page 372] and submitted that the order cannot be termed as excessive, considering the nature of prejudicial activities of the Petitioner.

3. I have considered the submissions. Reliance is placed on the decision of this Court in Ganpat @ Ganesh Tanaji Katare v/s. Assistant Commissioner of Police and others (2006 (1) Bom.C.R.(Cri) page 44). In the present case, the allegation of the Respondents is that there are 7 offences registered against the Petitioner at Pimpri, Hinjavadi, and Paud Police Stations in the Pune District. Reliance is also placed on the in-camera statements of four witnesses. The prejudicial activities alleged in the said in-camera statements also relate to the area within the jurisdiction of the revenue district of Pune. It was sought to be contended that the order of externment has been passed extending

to three more Districts considering the availability of fast modes of transport and the geographical proximity. Mere geographical proximity cannot be the basis for extending the order of externment to three other Districts. In the case of Pandharinath Rangnekar (supra) the Apex Court has approved the view taken by this Court where challenge was to the order of externment extending to Mumbai and Thane Districts. The view of this Court was that the said two Districts, due to various factors, form one unit. It is impossible to say that the Districts of Pune, Raigad, Ahmednagar and Satara form one unit. It is thus obvious that in view of the decision of this Court in the case of Ganesh (supra), the impugned order of externment is excessive and the same deserves to be quashed and set aside.

4. Hence the following order is passed:

Rule is made absolute in terms of prayer clause (a).

Judge.